

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: 14-CR-2783 JB
)	
THOMAS R. RODELLA,)	
)	
Defendant.)	

**DEFENDANT'S FIRST SUPPLEMENTAL
PROPOSED JURY INSTRUCTIONS**

The Defendant, Thomas R. Rodella, by his counsel of record, Robert J. Gorence and Louren Oliveros of Gorence & Oliveros, P.C., hereby submits his First Supplemental Proposed Jury Instructions to be submitted to the jury in this case. Mr. Rodella further requests that he be allowed to supplement these instructions as they become necessary or appropriate during the trial.

Respectfully submitted,

/s/ Robert J. Gorence
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing pleading was emailed to counsel of record by CM/ECF this 16th day of September, 2014.

/s/ Robert J. Gorence
Robert J. Gorence

DEFENDANT'S PROPOSED JURY INSTRUCTIONS

INSTRUCTION NO. 9

All sheriffs shall at all times be considered as in the discharge of their duties and be allowed to carry arms on their persons.

DEFENDANT'S PROPOSED JURY INSTRUCTIONS

INSTRUCTION NO. 10

You have heard evidence of the use of force as self-defense in this case. Force is justifiable when committed by a public officer or public employee or those acting by their command in their aid and assistance when:

- (1) in obedience to any judgment of a competent court;
- (2) when necessarily committed in overcoming actual resistance to the execution of some legal process or to the discharge of any other legal duty;
- (3) when necessarily committed in retaking felons who have been rescued or who have escaped or when necessarily committed in arresting felons fleeing from justice; or
- (4) when necessarily committed in order to prevent the escape of a felon from any place of lawful custody or confinement.

The use of force is necessarily used when the public officer or public employee has probable cause to believe he or another is threatened with serious harm or deadly force while performing their lawful duties. Whenever feasible, a public officer or employee should give warning prior to using deadly force.

NMSA § 30-2-6 (Justifiable homicide by public officer or public employee) (modified); *State v. Mantelli*, 2002-NMCA-033, ¶ 32, 131 N.M. 692, 699, 42 P.3d 272, 279 (quoting *State v. Lopez*, 2000-NMSC-003, ¶ 23, 128 N.M. 410, 415, 993 P.2d 727, 732) (“[W]here self-defense is involved in a criminal case and there is any evidence, although slight, to establish [such defense], it is not only proper for the court, but its duty as well, to instruct the jury fully and clearly on all phases of the law on [that] issue.”)